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# CERTIFICATE

## Supreme Court of the United States

OCTOBER TERM, 1929

## No. 133

THOS. A. EARLY, AS RECEIVER OF THE FARMERS AND MERCHANTS NATIONAL BANK OF LAKE CITY, S. C.

*vs.*

J. L. RICHARDSON

ON CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FOURTH CIRCUIT

FILED JUNE 6, 1929

(34,264)

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., JUNE 13, 1929

# United States Circuit Court of Appeals

FOURTH CIRCUIT.

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No. 2733.

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THOMAS A. EARLY, AS RECEIVER OF THE FARMERS AND MERCHANTS NATIONAL BANK OF LAKE CITY, S. C.,
PLAINTIFF-APPELLANT.

*versus*

J. L. RICHARDSON, DEFENDANT-APPELLEE.

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APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF SOUTH CAROLINA, AT FLORENCE.

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**QUESTION CERTIFIED TO THE SUPREME COURT OF THE UNITED STATES BY THE CIRCUIT COURT OF APPEALS OF THE FOURTH CIRCUIT ON THE CASE STATED.**

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**Statement of Facts.**

The case came into this court on appeal from the District Court of the United States for the Eastern District of South Carolina. A bill of complaint was filed in the District Court by the receiver of the Farmers and

Merchants National Bank of Lake City, South Carolina, against J. L. Richardson to recover the sum of $1,900 with interest, representing an assessment of $100 per share upon 19 shares of the capital stock of the Bank ordered by the Comptroller of the Currency, by reason of the insufficiency of the assets of the Bank to pay its depositors and other creditors. The answer of the defendant denies ownership of the stock, and on that ground resists payment of the assessment. The evidence shows that on November 18, 1925, the defendant Richardson purchased 10 shares of stock and received the stock certificate endorsed in blank by the seller. Then, in order to give the stock to his minor son, he took the certificate to the banking house and delivered it to the Bank with verbal instructions to register the stock and issue a new certificate in his son's name. This was accordingly done, the Bank retaining the new certificate in its custody. Similarly, on January 16, 1926, the defendant purchased 6 additional shares and had them registered in the name of his son. Again, on May 18, 1926, the defendant bought an additional lot of 3 shares and caused them to be registered as a gift in the name of his minor daughter. It is conceded that these transfers were made by the defendant to his children in good faith, without knowledge of the failing condition of the Bank, and without intent on his part to avoid the stockholder's liability. The Bank was closed by the Comptroller of the Currency on account of insolvency on October 9, 1926, and subsequently the receiver was appointed. At the conclusion of the evidence, both parties asked the court for binding instructions whereupon the court instructed the jury to find a verdict for the defendant.

Being divided and in doubt, this court respectfully certifies to the Supreme Court of the United States for its instruction and advice, the following question of law, the determination of which is indispensable to a proper decision of the case:

**Question.**

Is one, who purchases shares of stock of a national bank, liable for an assessment subsequently imposed by the Comptroller of the Currency upon the stock for the benefit of the creditors of the bank after the insolvency thereof, when it appears that the purchaser bought the stock from the registered holder thereof and received a certificate therefor endorsed in blank by the holder, with intent at the time of such purchase and delivery of giving the stock to his minor child, but without knowledge at that time of the failing condition of the bank, or intent to avoid the stockholder's liability, and when, after the acceptance of the endorsed certificate from the seller, and before the insolvency, the purchaser with like knowledge and intent, promptly presents the certificate to the bank, causes the shares to be registered and a new certificate to be issued in the child's name?

EDMUND WADDILL, JR.,
United States Circuit Judge.

ELLIOTT NORTHCOTT,
United States Circuit Judge.

MORRIS A. SOPER,
United States District Judge.

Richmond, Va., May 24, 1929.

## CLERK'S CERTIFICATE.

UNITED STATES OF AMERICA,
Fourth Circuit, } *ss*:

I, CLAUDE M. DEAN, Clerk of the United States Circuit Court of Appeals for the Fourth Circuit, do certify that the aforegoing is a true copy of the original certificate of the question of law to the Supreme Court of the United States in the therein entitled cause filed and now remaining of record in the said United States Circuit Court of Appeals.

IN TESTIMONY WHEREOF, I hereto set my hand and affix the seal of the said United States Circuit Court of Appeals for the Fourth Circuit, at Richmond, Virginia, on this 31st day of May, A. D. 1929.

{Seal of Court}

CLAUDE M. DEAN, Clerk,
U. S. Circuit Court of Appeals,
Fourth Circuit.